Appl. No. 10/512,124 Amdt. dated October 25, 2010 Amendment under 37 CFR 1.116 Expedited Procedure Examining Group 1647

# REMARKS/ARGUMENTS

### Status of the claims

Claims 5, 20, 25-31 remain pending and are not presently amended. Claims 5, 20 and 27 to 31 are amended. After entry of these amendments, claims 5, 20, 25-31 will be pending and presented for examination.

Claims 5, 20, 25-31 remain rejected under 35 U.S.C. 112, first paragraph, because allegedly the specification, while being enabling for a method for *reducing* viral infection and replication of the Murid herpesvirus 68 (MHV68) in a cell in vitro and in vivo, does not reasonably provide enablement for a method for inhibiting viral infection and viral replication in a cell in vitro or in vivo or a method of inhibiting a viral infection in a human.

The Applicants thank the Examiner for the suggestion of reciting "reducing." Support for the amendments to the claims

Claims 5, 20 and 27 to 31 were amended to set forth *reducing* in place of inhibiting. This substitution comports with the standard dictionary definitions (see, Exhibit A) and also with the usage in the specification. For instance, in discussing the poly I:C inhibition of viral infection shown in Figure 6E, the specification describes the observed reduction – not total prevention – as an inhibition.

This rephrasing in accord with a usage in the specification should not raise the issue of lack of written description:

- MPEP 2163.07 "The mere inclusion of dictionary or art recognized definitions known at the time of filing an application would not be considered new matter. It there are multiple definitions for a term and a definition is added to the application, it must be clear from the application as filed that applicant intended a particular definition, in order to avoid an issue of new matter and/or lack of written description."

Accordingly, the Applicants believe the amendments to the claims add no new matter and respectfully request their entry.

Response to the rejection of claims 5, 20, 25-31 under 35 U.S.C. 112, first paragraph.

**PATENT** 

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The Action acknowledged that claims reciting a reduction were enablement. The Applicants thank the Examiner for the suggestion and have accordingly amended the base and dependent claims.

Thus, the Applicants respectfully request the reconsideration and withdrawal of this grounds of rejection.

# **CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,

Frank J. Mycroft Reg. No. 46,946

TOWNSEND and TOWNSEND and CREW LLP Two Embarcadero Center, Eighth Floor

San Francisco, California 94111-3834

Tel: 925-472-5000 Fax: 415-576-0300

Attachments FJM:fjm 62960285 v1

# **EXHIBIT** A

# Webster's Third New International Dictionary

# OF THE ENGLISH LANGUAGE UNABRIDGED

a Merriam-Webster
REG. U.S. PAT. OFF.

Utilizing all the experience and resources of more than one hundred years of Merriam-Webster® dictionaries

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Library of Congress Cataloging in Publication Data Main entry under title:

Webster's third new international dictionary of the English language, unabridged: a Merriam-Webster/editor in chief, Philip Babcock Gove and the Merriam-Webster editorial staff.

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1. English language—Dictionaries. I. Gove, Philip Babcock, 1902–1972. II. Merriam-Webster, Inc. PE1625.W36 1993 423-dc20 93-10630 CIP

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MADE IN THE UNITED STATES OF AMERICA 495051 QP/H009998

Hition of control of the first MF, fr. L inhabitabilis, fr. in-tin-tibilishle adj [ME, fr. MF, fr. L inhabitabilis, fr. in-tin-tibilish abitable — more at HABITABLE] obs: not habitable; is not habitable; inhabitable \one on habitable, -bete-\adj [LL inhabitabilis, inhabitare + -abilis -able]: capable of being inhabited for ARLE

inhabited + -abilis -able]: capable of being inhabited terratte \ bad-an(1)s, -baton-also -baton-\ n-s [inhabit abi-tance \ bad-an(1)s, -baton-also -baton-\ n-s [inhabit abi-tance] \ response (grateful for his almost solitary ~ of the mel]: RESIDENCE (grateful for his almost solitary ~ of the william Saroyan) \ bi-tan-cy \ rise-nsi\ n 1: the act of inhabiting or the desired place of the principal office or place of business of a corporation sociation; sometimes: a fixed place of abode sociation; sometimes: a fixed place of abode sabitant \ rin\ n [ME inhabitant, fir. AF enhabitant, aff (pres. part. of enhabiter), fir. L inhabitant-, inhabitant, spart. of inhabitar to inhabit. 1: a person who dwells or lespermanently in a place as distinguished from a transient or visitor (an ~ of a house) (an ~ of a state) — pare CHIZEN, DOMICILE, RESIDENT 2: one that makes its that or is commonly found in a place (with respect to its that or is commonly found in a place (with respect to its that or is commonly found in a place (with respect to its that or is commonly found in a place (with respect to its that or is commonly found in a place (with respect to the sines of both man and animals — Farmer's Weekly (So.

thitant \"\ adj [L inhabitant-, inhabitans, pres. part.] initali ( ) adj ( ) madellan-, initialitans, pres. part.]
acc: RESIDENT, DWELLING
bitate vt -ED/-ING/-s [L inhabitatus, past part.] archaic

intate vi -ED/-ING/-s [L innaoitatus, past part.] archaic inset in the intation of the innaoitatus (past part. of bitation-, inhabitatio, fr. L inhabitatus (past part. of bitation-, inhabitatio, fr. L inhabitatus (past part. of bitation- in instance of inhabiting: the state of being inset of an instance of inhabiting: the state of being inset of space flight and space ~ -I.N.Leonard interview of the institution of the inhabitants (an ~ area) interview (part in inhabitant) and an area in inflation; fr. enhabiten, inhabiten to inhabit + er — more at intil archaic: one that inhabits in finabiting, inhabiting, fr. gerund of biten, inhabiten] archaic: a dwelling place bittive-ness \bodyness \ or residence J.R.Lowell

il-tress \-ba-tras\ n -Es [inhabiter + -ess] archaic : a

JR Lowell)

bi-tress \-bò-tròs\ n -Es [inhabiter + -ess] archaic : a

de inhabitant

lant \(')n; halont, on'h-\ n -s [inhabe + -ant (n.

lant \(')n; halont, bat is inhabed

lant \(''\) also in-hal-ent \\''\ adj [inhabe + -ant or -ent

suffixes) 1 : used for inhaling or constituting an in
sid (lergens) 2 : NCURRENT \( \sim \) pores\( > \) islation \( \), in(h) slashon \( n - s \) often attrib [inhabe +

gl:the act or an instance of inhaling; specif: the action of

sing air into the lungs by means of a complex of essentially

sactions that involve changes in the diaphragm and in

set of the abdomen and thorax which cause enlargement

chest cavity and lungs resulting in production of rela
sinegative pressure within the lungs so that air flows in

the pressure is restored to equality with that of the at
here.

phere la-tion-al \;==;lashən<sup>ə</sup>l,-shnəl\ *adj* : by or involving

ision-al \'.s\*, 'lāshon'l,-shnol\ adj: by or involving ision (~ therapy)

ision (~ therap

monic \in+\ adj ['in- + harmonic]: not harmonic

CODANT

CONDANT

COND

DECORD

DESCORD

I fin + haul (after haul in, v.)]: a rope used to stup's sail (as a spanker on its gaff)

Landsty w -ED/-INO/-S [2in + -haust (as in exThe haust (as in exTh

MNALE, IMBIBE (~ing mint juleps —Virginius | MnALE, IMBIBE (~ing mint juleps —Virginius | MnALE, Imbiber | M

As to take by descent from an ancestor: take by texture as a bit to the heir to successful as a store and a store and a store as a store and a store a

1 a: the act of inheriting property: as (1): the acquisition of real or personal property as heir to another: the perpetual or continuing right which a person and his heirs have to an estate or property (2) common, feadad, & Scots law: the acquisition of an ancestor's real estate upon his death by the heir under the Statute of Descent as distinguished from the succession to his personal property by the next of kin under the Statute of Distribution (3) Roman & Civil law: the succession upon the death of an owner either by testament or by operation of law by the heir to all the estate, rights, and liabilities of the decedent, the liabilities being restricted to the value of the estate when the heir was given the benefit of inventory b: the reception or acquisition of genetic characters or qualities by transmission from parent to offspring c: the acquisition of a material or immaterial possession, condition, or trait by transmission from the past or from past generations (resented his children's ~ of slavery from their mothers —Anne K. Gregorie hard-won freedoms that are ours by just ~) 2: something that is or may be inherited: as a (1): something that is derived by an heir from an ancestor or other person or that may be transmitted to an heir by a person (2) common, feudal, & Scots law: an estate of inheritance (as a fee simple or a fee tail) b: the sum total of genetic characters or qualities transmitted from parent to offspring (on the maternal side his ~ was a happy one) c: something material or immaterial that is derived or acquired from the past or from past generations (the random brutality that is the ~ of centuries of blackness — Irving Howe); esp: a permanent or valuable possession that is a common heritage or that is received from God or nature (our great ~ of water and land —A.E. Stevenson †1965) (their most precious ~ that thin layer of topsoil —K.D. White) (books are the major channel by which the intellectual ~ is handed down —New Republic) 3 obs: right of possession: Possession, ownership inheritan

with the deceased becomes more remote — compare LEGACY TAX 2: ESTATE TAX inherited adj: constituting something received by inheritance  $\langle \sim$  characteristics $\rangle$  (shackled by a mass of  $\sim$  conventions — J.L.Lowes $\rangle$  (a city which follows an  $\sim$  type of industry — Samuel Van Valkenburg & Ellsworth Huntington $\rangle$  Syn see

J.L.Lowes) \( \alpha \) city which follows an \( \to \) type of industry \( -\) Samuel \( \to \) n'her\( \alpha \) of \( -\) rists\( \) \( n \) [ME enheritour, enheriter, \( \text{ fr. enheriten to inherit} + \) our \( -\) or \( \text{ or or } - er \) \( -\) more at \( \text{ INHERTI } \) inher\( \text{ i-tress} \) \( \text{ fr. enheriter to inherits} \) : Her\( \text{ or of an ancient culture} \) inher\( \text{ i-tress} \) \( \text{ fr. enheritor} \) inher\( \text{ i-tress} \) \( \text{ fr. enheritor} \) in \( \text{ her inheritor} \) inher\( \text{ i-tress} \) \( \text{ fr. inheritor} \) inher\( \text{ i-triss} \) \( \text{ fr. inheritor} \) in \( \text{ fr. inheritor} \) inher\( \text{ i-tress} \) \( \text{ fr. inheritor} \) in \( \text{ fr. inheritor} \) inher\( \text{ fr. inheritor} \) inhib\( \text{ fr. inheritor}

(something that buttape and FORBID, RESTRAIN in-thi-it-table \(\text{-abs}\) adj: capable of being inhibited inhibited adj: being repressed, discouraged, reduced, or retarded: as a: characterized by, displaying, or reflecting inhibition (a shy and \(\times\) boy \(-\text{Alan Harrington}\) (\(\times\) respectability \(-\text{H.C.Webster}\) b: having its activity reduced or suppressed (\(\times\) oils)

inhibited adj: being repressed, discouraged, reduced, of retarded: as a: characterized by, displaying, or reflecting inhibition (a shy and ~ boy — Alan Harrington). (~ respectability — H.C.Webster) b: having its activity reduced or suppressed (~ oils) inhibition (an overly strict or ~ discipline — H.V.Gregory).

In. hi-bi-tion \( \) \

nomogeneous: lacking homogeneity — in-homogeneously

哦"

**2.** 

nomogeneous: lacking homogeneity — in-homogeneously "+\adv" inhop v1 [in- + hoop (n.)] obs: to enclose in a hoop in-hospitable \( \)()in, an+\adj [\text{lin-} + hospitable \] 1 a: not hospitable \( \)()in, an+\adj [\text{lin-} + hospitable \] 1 a: not hospitable \( \) to isposed to show hospitality \( \)( an \text{operator} \) perfect of hospitable \( \); oto isposed to show hospitality \( \)( an \text{operator} \) perfect of hospitable \( \); oto is reflecting or evidencing inhospitality \( \): UNPRESOLLY \( \)( gave me a brief, \( \) look \( - \) Louis Auchincloss \( 2 \): providing no shelter or sustenance: BARREN, DESERT \( < \) mountain areas\( \) — inhospitality \( \)( in) inhospitality \( \)( in) inhospitality \( \)( in) an+\adj \( \) for \( \). The \( \) inhospitality \( \)( in) an+\adj \( \) hospitality \( \) inhospitality \( \)( in), an+\adj \( \) hospitality \( \); inhospitality \( \)( in), an+\adj \( \) hospitable \( \): inhospitality \( \); in anhospitality \( \) \( \)( in), an+\adj \( \) hospitable \( \): a cold or unfriendly reception or treatment of a guest or visitor \( \) inhumanus, \( \); in \( \) in \( \) and \( \) diff \( \) \( \) \( \) inhumanus, \( \) in \( \) in \( \) and \( \) inhumanus \( \) in \( \) in \( \) and \( \) inhumanus \( \) in \( \) in \( \) and \( \) inhumanus, \( \) in \( \) in \( \) and \( \) inhumanus \( \) in \( \) in \( \) inhumanus \( \) inhumanus \( \) in \( \) in \( \) inhumanus \( \) in \( \) inhumanus \( \) in \( \) in \( \) inhumanus \( \) inhumanus \( \) in \( \) inhumanus \( \) in \( \) inhumanus \( \) inhuma

ini-hu-ma-tion \,inhyü'māshən\ n -s [F inhumation, fr. in-humer to inhume (fr. L inhumare) + -ation]: BURIAL, INTER-

in-in-i-cal-ness \-kəlnəs\ n -Es : the quality or state of being inimical
in-im-i-ci-tious 'ô;nimə;sishəs\ adj [L inimicitia hostility
(fr. inimicus enemy + -tia, suffix used to form abstract nouns)
+ E-ous] archaic: INIMICAL
inimicous adj [L inimicus, fr. inimicus, n., enemy] obs: INIMICAL

CAL
in-im-i-ta-bil-i-ty \(',')i,nimad-a'bilad-\(\bar{e}\), a,n-, -mata-, -lat\(\bar{e}\), it in the interval of the interval o

-bil adv
in in-vi-tum \inon'we\(\tilde{t}\)im, -'v\(\tilde{d}\)in on \(\tau\) adv
[L, against a unwilling person]: against a person's will or consent: by force of law irrespective of assent
in-i-o-mi \ine\(\tilde{d}\)in \(\tilde{l}\) n \(\tilde{l}\) n \(\tilde{l}\) n \(\tilde{l}\) n \(\tilde{l}\) in \(\tilde{l}\) or \(\tilde{d}\) or \(\tilde{l}\) or \(\tilde{d}\) or \(\tilde{d}

is the intermediate of the scalar product of the head, dim. of in, is sinew, tendon — more at withy]: the external occipital protuberance of the skull — see Craniometry illustration

in-iq-ui-tous \3'nikwad-as, -watas\ adj [iniquity + -ous] : characterized by iniquity: UNJUST, WICKED (~ deeds) syn see VICIOUS

see VICIOUS in in in an iniquitous manner in iq.ui-tous-ly adv: in an iniquitous manner in iq.ui-tous-ness n -ES: the quality or state of being iniqui-

tous in-iq-ui-ty \delta-inkwad-\(\varphi\), wat\(\varphi\), \(n\) - ES [ME iniquite, fr. MF iniquit\(\varphi\), iniquit\(\varp

trary to law imiquous adj [L iniquus] obs: INIQUITOUS in-irritability \(',')in, an + \ n: the quality or state of not being

in-irritability ('j)in, on+\n: the quality or state of not being irritable in-irritable \ 'n+\adj ['in-+ irritable]: not irritable in-isle \ an+\ archaic var of ENSE.

'lini-tial \ a'nishal' \ adj [MF & L; MF, fr. L initialis, fr. initium beginning (fr. initus — past part. of inire to go into, begin, fr. in- 'in- + ire to go — + -ium, suffix used to form abstract nouns) + -alis-al — more at ISSUE] 1: of or relating to the beginning: marking the commencement: INCIPEINT, FIRST \(\simeq \) symptoms of a disease\(\) (this \simeq \) series of outbreaks \(\simeq \) Thomas Cadett\(\) 2: placed or standing at the beginning (the \simeq \) word of a verse\(\) 3: of that form regularly employed only at the beginning of a word—used of a letter in an alphabet that has two or more positional forms

2: initial \(\simeq \) n \(\simeq \) 1 a (1): the first letter of a proper name (2) initials \(pt \)! the initial letters of an individual's name and surname, \(also \): the initial letters of the name of an organization, state, or other entity (as U.S.A. for "United States of America" or C.I.O. for "Congress of Industrial Organizations") or of any group of words (the \simeq \)"PE" (meaning